

**UNITED STATES DISTRICT COURT****FILED**

OCT 16 2019

for

WESTERN DISTRICT OF TEXASCLERK, U.S. DISTRICT COURT,  
WESTERN DISTRICT OF TEXAS  
BY [Signature]  
DEPUTY CLERK**Petition for Warrant or Summons for Offender Under Supervision**

Name of Offender: Jose Hernandez Case Number: SA19CR0175-OLG  
 Name of Sentencing Judicial Officer: Honorable Thomas J. Whelan, Senior United States District Judge  
 Date of Original Sentence: February 13, 2017  
 Original Offense: Importation of Methamphetamine, in violation of Title 21 U.S.C. §§ 952 and 960  
 Original Sentence: Forty-Six (46) months imprisonment followed by three (3) years supervised release  
 Type of Supervision: Supervised Release Date Supervision Commenced: November 7, 2018  
 Assistant U.S. Attorney: Lindsey Forrester Archer Defense Attorney: Hootan Baigmohammadi

**PREVIOUS COURT ACTION**

On February 12, 2019, Jurisdiction was transferred from the Southern District of California, San Diego Division to the Western District of Texas, San Antonio Division.

On April 5, 2019, a Probation Form 12A-Report on Offender Under Supervision was filed with the Court reporting drug use and failure to submit to drug testing. The offender was placed into a co-occurring treatment program and urinalysis testing was increased.

On July 19, 2019, a Probation Form 12B-Request for Modifying the Conditions or Term of Supervision with Consent of the Offender was filed with the Court due to the offender having been arrested for Driving While Intoxicated-Open Container. The offender's conditions were modified to include: DWI Impact Panel Program, DWI Education Program, shall not use or possess alcohol and Ignition Interlock on offender's vehicle for three months.

**PETITIONING THE COURT**

- ☒ To issue a warrant  
☐ To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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1. **Mandatory Condition No. 1: The defendant shall not commit another federal, state, or local crime during the term of supervision.**

On July 4, 2019, Mr. Hernandez was arrested by the Elmendorf Police Department for Driving While Intoxicated-Open Container(misdemeanor). He was released on bond and is pending a docket appearance in Bexar County Court at Law #15. The offender reported to the U.S. Probation Officer and admitted use of alcohol on July 4, 2019, and signed the Admissions/Denial Choice form. The offense report indicates the offender was asleep in his vehicle on the side road with the keys in the ignition. Upon making contact the police officer observed the offender to have a strong odor of intoxicant and the offender admitted to have been drinking to the police officer.

On October 3, 2019, Mr. Hernandez was arrested by San Antonio Police Department for Possession With Intent to Distribute a Controlled Substance, to wit 500 grams or more of a mixture or substance. The defendant appeared before Judge Elizabeth Chestney, on October 4, 2019, case SA19-MJ-01151 and is scheduled for a preliminary/detention hearing on October 18, 2019. He remains in the custody of the U.S. Marshals. The offense report indicates the offender was part of an ongoing narcotics investigation. Officers made contact with the offender because of a traffic stop. He had no valid insurance on the vehicle. The K9 alerted officers to the rear of the vehicle near the spare tire and methamphetamine was found.

2. **Mandatory Condition: The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court. Testing requirements will not exceed submission of more than 8 drug tests per month during the term of supervision, unless otherwise ordered by the court.**

3. **Standard Condition No. 7: The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substance, except as prescribed by a physician.**

On February 12, 2019, Mr. Hernandez was arrested by the Elmendorf Police Department for Driving While Intoxicated – Open Container, a Misdemeanor. He admitted to consuming alcohol on July 4, 2019.

On March 3, 2019, the offender provided a urinalysis, which resulted in positive for cocaine. On March 11, 2019, Mr. Hernandez reported to the probation office and admitted to the use of cocaine. Mr. Hernandez signed the Admission/Denial Choice form.

On October 3, 2019, Mr. Hernandez was arrested by the San Antonio Police Department for Possession With Intent to Distribute a Controlled Substance.

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4. **Special Condition No. 5:** Participate in a program of drug or alcohol abuse treatment, including drug testing and counseling, as directed by the probation officer. Allow for reciprocal release of information between the probation officer and the treatment provider. May be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on ability to pay.

On December 21, 2018 and July 19, 2019, Mr. Hernandez failed to report to Treatment Associates for a random urinalysis.

5. **Special Condition:** The defendant shall have an ignition interlock device installed on his vehicle for a period of three months (90 days), shall abide by all conditions and requirements of the ignition interlock system program, and shall not disconnect the ignition interlock system without prior permission of the probation officer. The defendant shall be prohibited from driving other vehicles without the interlock system and without prior permission of the probation officer. The defendant shall pay for all costs of the ignition interlock system.

On October 3, 2019, the offender was arrested for Possession With Intent to Distribute a Controlled Substance. According to the offense report, the offender was pulled over while driving a 2004 Jeep SUV. The offender had the Ignition Interlock device installed in his 1996 Chevy Silverado and was prohibited from driving other vehicles without the interlock system.

7. **Special Condition:** The defendant shall pay for and participate in the DWI Victim Impact Panel Program and shall comply with all rules of the program.

The defendant failed to complete the DWI Victim Impact Panel Program.

8. **Special Condition:** The defendant shall successfully complete a State Certified DWI Education Program approved by the U.S. Probation Officer.

The defendant failed to complete the DWI Education Program.

**U.S. Probation Officer Recommendation:** On November 7, 2018, Mr. Hernandez commenced his three (3) year term of supervised release. He began drinking alcohol when he was seventeen years old and has a substance abuse history to include cocaine, crack cocaine, marijuana and methamphetamines. Since being placed on supervision, Mr. Hernandez was referred to and completed substance abuse treatment and testing. He tested positive for cocaine, admitted to alcohol consumption, and was referred to co-occurring treatment. He successfully completed the treatment program. He also

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was on urinalysis testing, has been given breath tests, and was on the Ignition Interlock at the time of his arrest for the new offense.

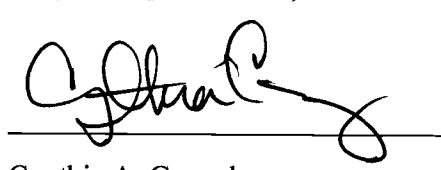
Despite the Court's previous leniency, the offender continues to violate his conditions of release. Therefore, we respectfully recommend a warrant of arrest be issued to show cause as to why his term of supervised release should be revoked.

- ☐ The term of supervision should be
- ☒ revoked. (Maximum penalty: 2 years imprisonment; Up to Life supervised release; and payment of any unsatisfied monetary sanction previously imposed)
- ☐ extended for     years, for a total term of     years.
- ☐ The conditions of supervision should be modified as follows:

Approved:

Respectfully submitted,

  
Tracy L. Tate  
Supervising U.S. Probation Officer  
Telephone: (210)472-6590, Ext. 5317

  
Cynthia A. Gonzalez  
U.S. Probation Officer  
Telephone: (210)472-6590, Ext. 5379  
Date: October 10, 2019

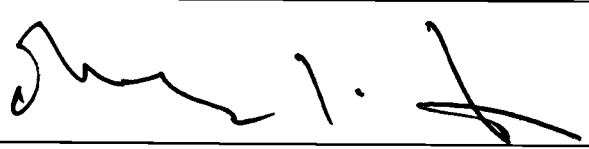
cc: Daphne Newaz  
Assistant U.S. Attorney

Brenda Trejo-Olivarri  
Assistant Deputy Chief U.S. Probation Officer

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THE COURT ORDERS:

- ☐ No action.
- ☒ The issuance of a warrant.
- ☐ The issuance of a summons.
- ☐ Other

  
Honorable Orlando Garcia  
Chief U.S. District Judge

10.16.19  
Date